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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,841	09/30/2003	Simon Chu	RPS920030112US2	4457
45503 7590 02/06/2007 DILLON & YUDELL LLP 8911 N. CAPITAL OF TEXAS HWY., SUITE 2110 AUSTIN, TX 78759			EXAMINER NEWAY, SAMUEL G	
			ART UNIT	PAPER NUMBER
			2626	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/674,841

Applicant(s)

CHU ET AL.

Examiner

Samuel G. Neway

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-8, 10-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 10-17 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                                  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

**DETAILED ACTION**

1. This is responsive to the Amendment filed on January 25, 2007.
2. Claims 1 – 4, 6 – 8, 10 – 17, and 19 are pending and are considered below.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 6 – 7, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kyotoku (USPGPub 2003/0110011) in view of Baese et al. (USPGPub 2002/0082025).

As to claim 1:

Kyotoku discloses a method and a product for regulating a download of a software from a server to a client computer on a network, the regulating being determined by a physical location of the client computer on which the software is to be downloaded (see Abstract), the method comprising:

storing a first list of authorized location ranges where a client computer is authorized to receive a download of a software from a server (paragraphs 50, 90);  
determining a physical location of the client computer (paragraphs 55, 92);  
comparing the physical location of the client computer with the first list of authorized location ranges (paragraphs 57, 93);

downloading ("remote access") the first software only if the physical location of the client computer is within the range of one of the authorized location ranges from the first list of authorized location ranges (paragraph 94, figures 4 and 7);

but Kyotoku does not explicitly disclose downloading the first software only if the client computer does not receive information derived from a GPS signal.

Baese discloses a method and a device for locating a vehicle similar to Kyotoku's locating of a client computer (Abstract) using GPS or beacons ([0011]).

It would have been obvious to one with ordinary skill in the art at the time of the invention to determine a location without the use of GPS if for example a device was in a screened region (Baese, "in screened regions (e.g., regions in which there is no mobile radio reception, GPS reception, etc.) it is possible to generate indoor position data ... using ... beacons" [0011]. Note that , in a screened region, a device does not receive information derived from a GPS signal).

As to claims 6, 7:

Kyotoku and Baese disclose the method of claim 1, but Kyotoku does not disclose the method wherein the physical location of the computer is determined from a local enterprise generated signal.

Baese discloses using local enterprise generated signals (beacons) to determine location ([0011]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Baese's other alternative path such as local enterprise generated signal to determine physical location. One would have been motivated to use

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the local enterprise generated signal to determine location in case it is difficult to use GPS for example where GPS broadcast wave cannot reach a GPS receiver.

As to claim 15:

Kyotoku discloses a method and a product for regulating a download of a software from a server to a client computer on a network, the regulating being determined by a physical location of the client computer on which the software is to be downloaded (see Abstract), the method comprising:

storing a first list of authorized location ranges where a client computer is authorized to receive a download of a software from a server (paragraphs 50, 90);

determining a physical location of the client computer (paragraphs 55, 92);

comparing the physical location of the client computer with the first list of authorized location ranges (paragraphs 57, 93);

downloading ("remote access") the first software only if the physical location of the client computer is within the range of one of the authorized location ranges from the first list of authorized location ranges (paragraph 94, figures 4 and 7);

but Kyotoku does not explicitly disclose downloading the first software only if a Global Positioning System (GPS) receiver on the client computer does not detect a GPS signal.

Baese discloses a method and a device for locating a vehicle similar to Kyotoku's locating of a client computer (Abstract) using GPS or beacons ([0011]).

It would have been obvious to one with ordinary skill in the art at the time of the invention to determine a location without the use of GPS if for example a device was in

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a screened region (Baese, "in screened regions (e.g., regions in which there is no mobile radio reception, GPS reception, etc.) it is possible to generate indoor position data ... using ... beacons" [0011]. Note that , in a screened region, a GPS receiver does not detect a GPS signal).

5. Claims 8, 10 – 12, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kyotoku in view of Wall (USPGPub 2002/0017977).

As to claim 8, 19:

Kyotoku discloses a system comprising:

means for storing a first list of authorized location ranges where a client computer is authorized to receive a download of a software from a server (paragraphs 50, 90);

means for determining a physical location of the client computer (paragraphs 55, 92);

means for comparing the physical location of the client computer with the first list of authorized location ranges (paragraphs 57, 93);

means for downloading ("remote access") the first software only if the physical location of the client computer is within the range of one of the authorized location ranges from the first list of authorized location ranges (paragraph 94, figures 4 and 7);

but he fails to specifically disclose the method further comprising: upon determining that the physical location of the client computer is not within the first list of authorized location ranges, requesting a download of a second software.

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However, Wall discloses a similar method where location is used to control access, use, and viability of software and hardware (Abstract) including downloading a limited use access/usage version of a software ([0103]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to request a second or any number of other downloads in Kyotoku's method, as is done in Wall's method by downloading different versions of software. One would have been motivated to do so because that would enhance Kyotoku's method by extending "the control of the provider to the end user ..." (Wall, [0029]).

As to claim 10:

Kyotoku and Wall disclose the system of claim 8, Kyotoku further discloses: upon determining that the client computer is not located within an authorized area for the requested software download, generating an alert ("message") issued to a software administrator server (paragraph 84).

As to claim 11:

Kyotoku and Wall disclose the system of claim 8, Kyotoku further discloses wherein the lists of authorized location ranges are stored in the server (paragraph 93).

As to claim 12:

Kyotoku and Wall disclose the system of claim 8, Kyotoku further discloses wherein the physical location of the computer is determined from a Global Positioning System (GPS) signal (paragraphs 55, 92).

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6. Claims 2 – 4, 13 – 14, and 16 – 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kyotoku (USPGPub 2003/0110011) in view Baese et al. (USPGPub 2002/0082025) and in further view of Wall (USPGPub 2002/0017977).

As to claims 2, 16:

Kyotoku and Baese disclose the method of claims 1 and 15, but Kyotoku fails to specifically disclose the method further comprising: upon determining that the physical location of the client computer is not within the first list of authorized location ranges, requesting a download of a second software.

However, Wall discloses a similar method where location is used to control access, use, and viability of software and hardware (Abstract) including downloading a limited use access/usage version of a software ([0103]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to request a second or any number of other downloads in Kyotoku's method, as is done in Wall's method by downloading different versions of software. One would have been motivated to do so because that would enhance Kyotoku's method by extending "the control of the provider to the end user" (Wall, [0029]).

As to claim 3:

Kyotoku, Baese and Wall disclose the method of claim 2, Kyotoku further discloses: upon determining that the client computer is not located within an authorized area for the requested software download, generating an alert ("message") issued to a software administrator server (paragraph 84).



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As to claims 4, 17:

Kyotoku, Baese and Wall disclose the method of claim 2, Kyotoku further discloses wherein the lists of authorized location ranges are stored in the server (paragraph 93).

As to claims 13 – 14:

Kyotoku and Wall disclose the method of claim 8, but Kyotoku does not disclose the method wherein the physical location of the computer is determined from a local enterprise generated signal.

Baese discloses using local enterprise generated signals (beacons) to determine location ([0011]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Baese's other alternative path such as local enterprise generated signal to determine physical location. One would have been motivated to use the local enterprise generated signal to determine location in case it is difficult to use GPS for example where GPS broadcast wave cannot reach a GPS receiver.

### ***Response to Arguments***

7. Kraft is withdrawn as prior art in view of Applicant's invocation of 35 U.S.C 103(c). The finality of the last Office Action is thus also withdrawn.
8. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Glick et al. (USPN 6,985,588) discloses a system and method for using location identity to control access to digital information, wherein the location is done using various methods.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G. Neway whose telephone number is 571-270-1058. The examiner can normally be reached on Monday - Friday 8:30AM - 5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R Hudspeth can be reached on 571-272-7843. The fax phone


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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SN

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